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CLERK OF COURT
YAVAPAI COUNTY, ARIZONA

2012 FEB 13 PM 3:44 ✓

SANDRA K. HILLMAN, CLERK
BY: [Signature]

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IN THE SUPERIOR COURT OF STATE OF ARIZONA
IN AND FOR THE COUNTY OF YAVAPAI

STATE OF ARIZONA,

Plaintiff,

v.

STEVEN CARROLL DEMOCKER,

Defendant.

Cause No. P1300CR201001325

Division 1

STATE'S MOTION FOR
CLARIFICATION OF THE COURT'S
RULING DENYING ADMISSION OF
JAIL CALLS ON FEBRUARY 10, 2012

The State of Arizona, by and through Sheila Sullivan Polk, Yavapai County Attorney, and her deputy undersigned, hereby submits its Motion for Clarification of the Court's February 10, 2012 ruling denying admission of the recorded jail calls at trial.

MEMORANDUM OF POINTS AND AUTHORITIES

On February 10, 2012, the Court precluded, without elaboration, the State from using at trial recorded jail calls. Looking back, the State was vague on what jail calls it was asking the Court to allow at trial and the reasons behind the request. Since this case began, the Defendant has made over 3000 recorded jail calls taking many months to sort through involving 100's of hours in time. Initially, the calls were screened for relevant statements under the first degree murder charge.

On January 22, 2010 Judge Lindberg ruled the State could use at trial, jail calls disclosed by December 31, 2009. On April 13, 2010 Judge Lindberg incorporated his previous order and added the State could use calls disclosed by December 31, 2009 if they were summarized by February 6,

Office of the Yavapai County Attorney

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1 2010. Attached hereto in exhibit #1 is a list of calls disclosed in the State's supplemental disclosures
2 22, 37 and 40 as of December 31, 2009. On January 29, 2010 the State disclosed YCSO supplement
3 #126 containing a list of summarized calls. See exhibit #2 attached hereto.

4 Exhibit #3 contains a list of 100 recorded jail calls the State deems material and necessary to
5 prove the elements under counts III through X of the indictment. All of the jail calls on exhibit #3
6 were disclosed prior to December 31, 2009. Not all of the calls in exhibit #3 were summarized by
7 the State by February 6, 2010. At that time, the State was not summarizing calls related to the
8 Testamentary Trust, escape bag, the voice in the vent and anonymous email. The majority of the
9 calls listed in exhibit #3 pertain to charges to the indictment that did not exist on January 20, 2010.

10 The State learned in Defendant's opening statement in June 2010, the Hartford Insurance
11 proceeds "were distributed" to the DeMocker girls. The investigation on the distribution of the
12 insurance money took several months to complete. The State did not learn until April, 2010 that
13 Defendant hid an escape bag. The State did not learn Defendant authored the anonymous email until
14 September 2010. Investigations related to the above events did not exist in January, 2010 and no
15 connection was made to the jail calls until much later.

16 In the hearing on January 22, 2010 attorney Ann Chapman in talking about 2,700 jail calls,
17 said "We had parts of them up through August transcribed. That is approximately 25,000 pages of
18 transcriptions." See exhibit 6, page 101 to State's motion for reconsideration. The previous defense
19 team transcribed a majority of the recorded jail calls but never disclosed them. To this day, the State
20 has not received disclosure of a single transcribed jail call from the Defendant. The withholding of
21 this material from the State must not go unnoticed. The Court should order the Defendant to
22 disclosure all of the transcribed calls.

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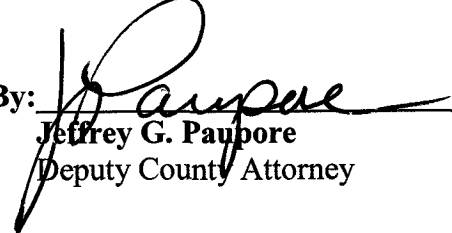
1 The State has made a good faith effort to comply with the Court's orders. The State
2 disclosed the recorded jail calls promptly to the best of its ability. The State disclosed summaries of
3 calls deemed relevant at the time. If the Defendant had timely disclosed the transcribed jail calls
4 back in January of 2010, the State could have identified specific calls much earlier in this case.
5 There can be no claim of surprise on the contents of the recorded jail calls. Under the circumstances
6 preclusion of all jail calls is excessively harsh.
7

8 In the recorded phone calls, defendant makes admissions inferring motive, intent, plan and
9 preparation relevant to the escape plans, the voice in the vent, the anonymous email, and the
10 manipulating of Testamentary Trust funds. To penalize the State by precluding the listed recorded
11 jail calls would cause unfair prejudice to the State's case.
12

13 The State seeks the Court clarification on whether the calls in exhibit #3 may admitted at
14 trial with proper foundation. In the alternative, the State moves this Court for an order allowing
15 use of the calls for rebuttal and or impeachment purposes.
16

17 **RESPECTFULLY SUBMITTED** this 13th day of February, 2012.

18 **Sheila Sullivan Polk**
19 **YAVAPAI COUNTY ATTORNEY**

20 By: 
21 **Jeffrey G. Paupore**
22 **Deputy County Attorney**

23 **COPY** of the foregoing **Emailed** this
24 13th day of February, 2012, to:

25 Honorable Gary Donahoe

26 Division 1

Yavapai County Superior Court

Via email to: gdonahoe@courts.az.gov

Division 1

Via email to Cheryl Wagster: CWagster@courts.az.gov

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18 By: 
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Jail Calls Disclosed by December 2009

Disclosed on June 22, 2009 in the State's 22nd Supplement

#6107 November 2008- June 23, 2009 (16 disks)

#6108 November 27, 2008 - December 24, 2008

Disclosed on October 15, 2009 in the State's 37th Supplement

#6111 June 24 - June 30, 2009

#6112 July 2009

#6113 Aug 1 -15, 2009

Disclosed on November 24, 2009 in the State's 40th Supplement

#6121 Aug 16 - September 30, 2009

Law Supplemental Narrative:

Seq Name	Date	Supplemental Narratives Narrative
126 McDormett, J	12:50:56 01/29/10	
+Call summary report		

NOTE: This report could not be placed in Spillman because certain characters used cannot be used in Spillman. A separate word document will serve as supplement #126.

Report Approved, T. Boelts #2735, Fri Jan 29 13:50:25 MST 2010

617804

Supplement #126

What follows are excerpts phone calls made by Mr. DeMocker while in custody. Recordings of all the jail calls from 11/1/08-12/31/09 have already been placed into evidence. There are excerpts from two letters. The summaries of all the calls listened to were placed on disk and will be placed into evidence. Eight different people were summarizing and listening to calls. This is a list of people who listened to the calls and dates listened to. This list is up to date as of 1/29/10.

NOTE: This could not be placed in Spillman because certain characters used cannot be used in Spillman. This will serve as supplement #126.

Phone summaries:

Derek Drisch (deputy-light duty) – 2009 4/1-4/12, 4/14-4/25, June 17-19, 22-28

Jody Villalobos (deputy-light duty)-2009 6/1-6/16, 6/20-21, 6/29. 7/2-7/25

Bruce Adair (civilian employee) 2009 4/11-4/13; 5/2-5/6

Cassandra Rogers (civilian employee) 2009 -3/16-4/1

Anne Gorden-Lorentzen (VIP)- 2008 11/01/08 - 3/16 2009, 2009: 2009: 9/29-10/8, 10/12-10/17, 10/21-10/22, 10/29-11/4

Ron Williams (deputy-light duty) 2009 – 8/15-8/19

Evelyn Houston (VIP) - 2009 7/26-08/31 (asked to start on November 09)

Ursula Ashby (VIP) - 2009 9/1-9/28 10/8-10/13 -10/15, 10/17-10/27 (no calls 10/28) 10/29-10/31

Not yet done: 2009: 4/26-5/1; 5/7-6/1, 6/30-7/1, 11/4-present.

Jail phone calls:

2008

11/11/2008 to Sue at 19:53

SD:..... JD has his own judgments about SD's lifestyle and it has always appeared extravagant to him (JD)

SD: ..." and to some degree, ya know, I have lived beyond my means". SD thinks JD is dealing with some impulse in correcting that and added to that JD and K have never gotten along.....

11/12/2008 to Sue at 9:14

SD says what he sees in the discovery they have radically wrong and it's damaging to his reputation. It's wrong and easily disproved....stuff like I used escort services and things like that ... Which is bullshit and easily disproved...its was just some claim that Carol during the divorce which has no basis in fact but they're taking it and seizing it and running with it and to the extent that any of that stuff winds up out there John said it might.. Do your best to dispel or debunk, particularly with Renee.

12/9 to JD – still talking about how carol owed him 8300

From 12/17/08 SD tells R.... "It's so easy for me to imagine being furious with Barb or Carol. It's really difficult to imagine losing it with you. ..."

12/26/2008 to Mom and Dad at 18:00

SD:..... In retrospect I sure wish I could have seen this coming cause I would have made different financial decisions in the form of..... but as it was, assuming no arrest, we were gonna be fine
.....

Mom: Yeah well....we all would have.... the other long term thing is... Heading out from here when you can you need a 10,15, 20,000 bank account somewhere for emergency funds...

SD: But I just finished a divorce and the thing people forget is that ...I couldn't have been arrested at a worse time in terms of how it looked financially...but I had close to \$70,000 coming my way over the 5 weeks over the next 5 or 6 weeks, all of which got interrupted...

Mom:..... where you were with the divorce was not all your doing...you had a lot of help spending that.....

SD:...I didn't feel very bad about C' s car, I think K's ...I got...I paid...I saddled myself with too large a lease too far away from the end of the divorce before I, when I, and then I got.....

Mom: creamed...

SD: creamed and I thought, I thought we were closer...with C I knew where I was and I knew what was coming and the divorce...of course then the market took us all down...I didn't anticipate that...that took about ten thousand away from what I was gonna about to get from Carol, turned 40 into about 28 which was coming my way from her. But that would...that plus my paychecks that were coming in nicely I would have been ok, but ,but...

Mom:... it was unfortunate but we'll get through this.....

2009 calls

1/19/09

14:32 to R

R says she talked to her family about writing a book with SD about this whole experience.

SD again talks about writing a book or 2 about this whole experience. SD says Mike DeMocker (his brother - the photojournalist) with his connections has a slam dunk book contract out of this. The question is whether SD and Mike write it together or Mike writes his own book about the legal and family side of SD's Case.... SD says depending upon the notoriety (of this case), sometimes people approach " you" for the rights. R says even the spinoffs - the Haikus and their romance unfolding could be another book.

Jan 15 to Rene- Well, the other thing is, what we have in the record, over and over is, is that \$197,000 that all went to her. When you take out the taxes and you take out every shred of her debt except the mortgage and you pay off Caselena (accountant hired by Carol's divorce lawyer) \$40,000 in divorce attorney costs that she should never have racked up and pay off what she couldn't afford of her '07 taxes. She still had \$30,000 left over in her checking account and she owed me \$8300 of it. And over coffee, the whole point of coffee was to settle it. Ya know, I owed her 6000. She owed me 8300. She was trying to get me to pay taxes on some of that QADRA distribution which the consent decree said clearly I didn't have to do. And I just agreed ...you drop that thing and forget this whole bullshit about our tax return. Do what you are supposed to do. Claim the amount that Doug (Rayder?) has told us, after checking with the IRS that it's legitimate to do. File your damn taxes. Don't go back to court over something that's already and I'll forget the 8300 and we'll end it right here. And that was our agreement ... that was the main point of coffee that morning .to get rid of this. It felt good last night. Let's just keep this feeling going. Let's just make it warm, ya know.....

1/19/09
16:10 to C

C talks about all the bloggers on the Daily Courier and those in support of SD innocence.

SD: This is just over... anyone.... Apparently, all of the legal talk around town is - why is the State even proceeding with this case?

The issue is very narrow... It's not whether there's evidence that I had affairs or that the state has a theory of this or that....The question is... is there evident proof that I committed the crime. You could even make the argument, that, even tho' there's a total explanation for the websites I visited and the books I ordered .even if somebody was, there probably are, I'm sure there are lots of people who are, ya know we weren't really that phase..somebody going through a really nasty divorce still going through it might very well entertain fantasies ..but it's such a long way from somebody thinking about it and somebody doing it...You still have to prove that he actually did it. Ya know, it's it's just crazy. I mean this is so far away from any credible case I just don't get it...I'm getting pretty frustrated..you're right I just don't see how the Judge could rule, I mean...there is still absolutely no evidence that I had anything to do with her death.

C : in fact, there's opposite evidence.

SD: There's zero evidence. And there's a huge question hanging here about who else might have been there besides the men who, ya know, there's an explanation for having been there..we don't know her life well enough to know who else she might have been seeing without anybody knowing.

1/24/09
21:00 to R

SD says he knew when the divorce was over he'd be left vulnerable by Carol, her not paying it (the mortgage). SD didn't think that was how it would happen - she'd just walk away which is what she was talking about doing. The very day we (SD and Carol) settled she (Carol) even said it to the girls. She was just thinking about walking away from it. Just moving away and leaving me with Bridle Path so that, in order to protect myself, I would have had to step back in (and pay that mortgage).

R: You would have done what you did.

SD: Yeah exactly.

R: You would have sold one of the 2 houses

SD: Yeah, yeah...now there's no reason. Well anyway ..oh well

R: We've learned a lot of lessons here...

SD: The biggest ones are the ones I'm glad to have.

Personal talk...I've learned that police are not very smart I'm trying to bait them on this recorded call... Both laugh ...

1/31 w/jd JD also tells SD that all 4 of SD's vehicles are in elevated repo status... SD says if they can't find them they'll report them stolen

2/21/09

9:15 to Dad

Dad says that for whatever reason SD has dug himself quite a hole (financial) to climb back out of.

Dad tells SD that the girls (K and C) might have to get used to a lesser lifestyle financially. SD says, - Without sounding too defensive - there is some degree of misperception on the part of the family. Running Carol's house for 5 years was the biggest part (of his expenditures). Time runs out. End of call.

2/21/09

9:33 to Dad

SD tells his Dad that while his lifestyle was a bit high, the girls and he were not living profligately, but Carol was. It isn't true that he didn't have money set aside, but the money to settle the divorce cost him a lot. It is true somewhat that a different attitude toward lifestyle would have been better. But Carol ran up debt for the 4 years during the separation.

SD says that's not true. SD says he always combined his UBS work with his trips and was able to write off the trips. It's a myth he spent a lot of money on hotel rooms.

2/24

C says that she doesn't want to live with R. SD says she can't live on her own. C says she can. C says she likes R but she doesn't want to live with her. SD says she has to live with someone or CPS could find out and from a public relations standpoint - with him on trial for murder, it could affect his case. C insists she could live be herself; she gets to her doctors' appointments by herself; she gets her homework done with no adult supervision. C says she could be emancipated. Then and be able to live on her own.

2/24/09

20:40 to R: Personal chatter.

SD says that it is difficult in jail and it's like being a prisoner of war, but if John McCain endured it, SD can, too.

3/2/09

17:50 to R

SD says C also called K who then drew out 2 swords and then called JD who then called Sue. SD says that K is a hot head - that she got from me - says SD. SD says he always would wade into a fight. The girls got the sense of melodrama from Carol.

03/16/09 @ 20:44

Democker talks to Renee about some recent letters he received, etc.

017808

Around 03:40 Democker says he talked to Sears and it was the first time he felt Sears sounded openly confident about trial. At 04:29, Democker says, "That's why he's drilling into the Knapp thing so much. I think he likes Knapp for this better than any other theory."

03/17/19 @ 10:39

Democker talks to Katie. Over the course of this conversation, discussion becomes heated argument. Democker needs to make the decisions about how the resources are to be deployed. Katie says that Sears told her the decisions are hers. Katie does not want to take for granted that Democker will be able to take care of Charlotte's college tuition and plans to set money aside to make sure Charlotte's education is provided for in case of the worst case scenario. Democker argues with Katie that priorities set for this money are #1 bond and #2 defense; Charlotte comes last. During the argument Democker tells Katie that the money is being released to her so that she can use it to help him and reminds her that unless she will do as he says she will not have access to the money at all. Katie counters that Democker has no one else to appropriate these funds for him, so if he does not submit to her request to set some of it aside for Charlotte, he won't be able to use any of it because she will refuse to help him.

03/17/09 @ 11:50

Democker talks to Charlotte. He starts telling her about the argument he had with Katie. Charlotte tells Democker that Katie doesn't have as much faith in him as she does. Democker continues to talk to Charlotte about how hurtful and unreasonable Katie was and Charlotte begins to get upset and asks him repeatedly to leave her out of it and stop talking to her about it.

4/13/09 calls

0828 hours

776-4401

SD to R

SD expresses concern that Law Enforcement might arrest his daughter's (C's) boyfriend (Scotty) for illegal sex acts (Daughter is 17 and Scotty is 19). SD thinks this might be a way for Law Enforcement to harass him.

5/6/09 @ 17:27 to (541) 683-8837 - Mary

SD & Mary discuss Barb and how Barb is now against him. SD indicates that Barb apparently believed that she and SD would be an item, after his (SD's) marriage ended; however, he found R instead. SD believes that she (Barb) is a woman scorned. SD describes Barb as "an enemy".

07/06/09 @ 1433 hrs to (928)554-5785 (R) 15:07 Mins:

SD giving R a coded message: 31 45 29 11 61 13 2 57 9 36 5 33 6 32 72 58 46 65 7 68 8 18 35 71 38 23 13 67 36 59 69 58 46 63 61 13 22 39 1 42 then who knows how, 69 50 26 25 3 18 53 14 16 49 65 but it goes without saying that... 39 71 63 7 17 35 40 26 36 9 54 24 23 46 39 19 58 33 66 61 13 52 61 69 10 4 63 18 64 50 20 4 26 36 55 73 23 69 54 39 25 58 26 71 33 11 18 13 58 17 61 21 63 1 46 44 29 68 2 40 72 60 34 67 11 61 13 50 20 45 4 49 58 65 54 33 17 56 23 73 6 16 1 13 18 46 7 25 61 37 44 27 3 36 62 63 58 5 19 10 66 26 18 73 64 43 28 17 42 45 67 47 18 58 23 8 35 61 22 36 73 26 63 38 18 69 50 10 13 60 42 51 23.

4-16-09, 1721hrs, 928 533-2729, 15min, Called Rene. Steven says that he spent about 1/2hr earlier re-reading Judge Lindberg's ruling. He says that after reading it, it's clear that the state has no case. He says that there are three things that are suspicious, one is the book and the other two are wrong-only suspicious because the state threw them out there. The thing about the novel and computer search could not be explained because he couldn't take the stand. The other stuff about the scene being staged, no one knows unless someone took photos. He says that Lindberg is taking it on faith because if it's what they say, that the ladder didn't have any blood on it, that means it was staged. Steven says that if someone attempted to stage it, it wasn't me. Rene states that the only reason that it was

suspicious is because of those searches. Steven-right, but those had to do with staging a suicide. Rene mentions a Courier article about the court hearing. Steven says that he doesn't remember the actual searches, but they had to do with staging a suicide, doesn't relate to Carol's death, but does relate to research I was doing.

6-24-09, 1317hrs, 928 554-5805, Called his parents. He begins by talking to his Mom about financial issues. Steven then says that Barb has utterly betrayed him by cooperating with police. Steven says that he is concerned about his Dad's loyalty to Barb. His mother tells him that his father did not know Barb was cooperating with police. Steven says that Barb is still one of the great loves of my life, that I was really mad at her, but I can forgive her.

7/27/09 – 14:58 – SD to R

SD not able to get a hold of John. John did call R in connection with C matter. John would rather C not talk to the police; John tried to call Officer Small, left message to call. John was going to explain background, would like to avoid going any further, how much to pay and make this go away. John afraid C will go in and make a statement and that they will go ahead and press charges and he thinks C will go ahead and admit to part but also explain her part. John just wants to nip it.

July 29 – 11:13 – SD to R

Small talk about her day; SD relates discussion with Mary, she is frustrated with John, family voice in this matter mishandled, John solidly competent but not up to date, have to fight in media – it is the jury pool. Not only question of jury pool, but rather why is this still being pursued against him – Sheila Polk still accountable for this mishandling and the police and investigation. SD told Mary to stop being silent – only appropriate response is outrage – gives some idea of guilt. Silence at 9 months is tantamount to conceding – showing guilt. SD states to R "...it got me going, easy to get me pissed off".

July 30 – 19:02 – SD to R

Discussion about C and her relationships and SD compares with unworkable relationship with his marriage.

August 1 – 10:11 – SD to R

R states she was feeling, after Morgan went through his rages he would be fine but she would be trembling for days. SD states he went through same with Carol, sometimes insanity was transferred to him. R will discuss with C; it is also important for her growth, she will not run away, she will do it. SD states – let me correct something I said... that these last few phone calls about C has tapped into anger I have about my marriage, I've mentioned Carol more often than normal lately; could sound disrespectful; also didn't mean "insanity", everyone has little hints of being kind of crazy sometimes, she wasn't insane, I just meant to agree with you that she and I would pass our anger or rage or some form of dysfunctional back and forth, you bring it up, you discharge it and the other person gets left trembling and then we will turn around and not be willing to help them with it....R asks how he is. SD feels patience, frustration; recently feeling hope that sanity is creeping into this, even in ranks of the opposition; this is an exercise in trust and patience but its taking too long; truth has its own intrusive power; he has never been good at being patient. Personal talk.

8/9 15:26 – SD to Mary

Mary discusses her tenant problem, getting money for needed repairs; SD discusses now is the time to shine light on this, meeting that is set up, SD tells Mary the police have been spinning this. They are telling

lies. Mary has been sharing with her friends from Prescott what is on the public record. SD relates hearing schedules and evidentiary hearing dates. SD states he is not worried about trial; doing everything that is right in building defense; would like to solve this if they could; they are doing things the Sheriff's office has declined to do; not focused on DNA. Investigating Knapp's death, look into Knapp's life and involvement; looking at Knapp's computer; amazing what Sheriff's office has declined to do. They discuss SD's essay.

8/10 11:55 – SD to R

355 is what needs to be moved out. R states there is 470 in estate account, question of whether there is a hold back for taxes. SD states he is tired of being here; John told him pressing on with the motion; SD states they are digging hard into Knapp, the more they read about him the more bizarre it is, states Knapp volatile and delusional.

21:16 – SD to R

SD will talk to John about it; R states John just brushed Richard off; Richard is convinced that Teagarden was dangerous; R states John told Richard he had an alibi, DNA no match.

9/2/09, 17:07 SD to R

We have Johns blessing for letters to the editor. R. So that's a place to start. SD. I doubt if John would want people to get too specific about the evidence or lack of it.

9/3/09, 17:44, SD to R. 14 Min

SD. Continued chatter about how the day was going, going to the bank. Got the account topped up? R got a call from C. the whole mess with drama soley? Something is finally moving. It looks like the owner isn't looking for restitution that's what the women told me today on the phone, she is looking for C to put in some time and there may be some money involved but I don't know at this time.

SD. You mean community service? R. Yah. SD. That's BS. R. It is. She's got all the power here at this point. SD. Really, are they really going to do that to her?

R. Apparently. SD. We should get an Attorney now. R. It's your call. You know, C was dishonest and broke the rule and is perceived as theft and this is their answer. SD is worried about her getting a record. R. No there want be a record. John told me. SD. Let the Attorney handle it. R that's fine, what ever you want to do. R. I will have a meeting at the end of the month (29th). More chatter about what to do.

Personal chatter. End of call.

09/4/09, 09:20, SD to R. 15 Min

SD. Personal chatter. R. packed art work into the car. Tons left to do at the town house.

R is complaining and upset about C. not helping. So I just did the lion's share of the kitchen just now, this morning. She (C.) asked if she could go to a ballgame and I started to say sure. SD. This afternoon?

R. telling SD that this game would be in Cottonwood and she wants to go after school. I said C we have so much to do. The movers are coming tomorrow. (SD she is like a space cadet like her mom.)

9/13 19:39, SD to R

Personal chatter. SD stating he is not a patient man; for all I know an other fight will break out and that will be the last you hear from me until the day after tomorrow.

9/14 09:48, SD to R

017811

Complaining about inmates; couldn't call John because the phones where not turned on. SD states Butner is 3 business days late now. Katie is a dickhead. Katie and Jamal got a speeding ticket....R interrupts. R is asking how much tip to give the movers. SD's answer (\$60, \$20 each). Call ended.

10/06/09
19:19 to R

SD asks R about the puppy C and her boyfriend found in Flagstaff R says they left it up there. SD says that there have been various animals that came into his and Carol's household, he wished silently would be recycled into the foodchain (eaten by coyotes). He also says he tried unsuccessfully to save one of their housecats from a coyote.

10/21 (Ursula) 11:13, SD to Mom and R.

Small talk about the new phone system. Mom is deciding to stay or not.
Same small talk with R.

SD I talked to John this morning...The real conclusion is the Judge is an unknown...the important ruling are jet to come...Kick their ass with me in here (jail). SD is still hopeful the Judge will send him home. R is not getting any info from John, didn't ask for it.

SD. Discussing how the tie looked; suits need to be picked up (Judy). SD I rather not have \$5000.00 worth of suits sitting there... and if you through in the accessories and suits together it is \$5500 - \$6000 worth of clothes all together which is embarrassing, not embarrassing it's just something I don't want to advertise to the police dept.

Small talk.

10/21 (Ursula) 13:26, SD to Mom.

SD I am missing Carol these last few weeks. SD discussing Carol with his Mom. SD there was a warming trend after the divorce. SD thinks they could have become friends.

Discussing Carol's friend Colon and David. Our relationship was tense over some issues...but we where functional...frustrating at times.

SD How much we disagreed over money we never showed the kid's, never became destructive. Jim Nab... I think some of the other people who are parroting what Carol was saying in her spreading the miss... Carol was spinning about me... was kind of self serving; saying I was dishonest. Not that the demand she was making was unreasonable and everyone else agreed with them. In the end well there is still a lot that might come up in court probably better not go too deep into it... The girls know what the truth is...

10/22/09 to R at 16:57

R: She has no doubts about SD's future fidelity to her.

SD: There was always a question in his relationship (with Carol) .. There was always something in reserve. There was always something that wasn't quite good enough He never said - I love you (to Carol) the way he says it to R. He never got to talk about the future without that question

10/29 Ursula 20:47, SD to R.

Butner sounds like a 5 year old. SD it's embarrassing between Butner and Brown. Scolding him in public. SD not our problem. I like John better. SD the DO doesn't like me to turn around. He gets nervous. SD will address it tomorrow with the DO. Small talk. SD do they not even want to know who did this? So you didn't do this? Pretty amazing! I know there was a plan to search the ranch land but it just never happened. So you mean the murder weapon could be out you know behind the property there under a bush still, yup it's possible...laughter... in a fire pit...laughter. I just don't see how they can't be ashamed of themselves right now. Poor guy. And McDormett for the better part of the year has felt to me like a lump sitting on top of this investigation. I can't tell maybe he is a quiet thoughtful force behind all this we just don't know. R. Maybe he gets sick when he takes the stand. SD can't handle the stress of being a detective? Okay.

From letters

12/10/09 letter---SD to R. He says it should be written that a good man who was never violent, good dad, "and who has been impeccably honest in his professional life and personal finances and extended himself with fairness and generosity in his divorce

12/21/09 letter to Renee---includes his take on the case and investigation up to date bullet point style.

Approved, T. Boelts #2735, 1/29/10, 1315 hours.

EXHIBIT #3

RECORDED JAIL CALL SUMMARIES

1. Nov 1, 2008 @ 1011 w/Sue DeMocker, Defendant's concern ins. premiums are timely paid (Rebuttal):
2. Nov 2, 2008 @ 11:31 w/Jim DeMocker ("Jim"), "I don't know what to do about the securing of my emails...g mail...as long as nobody accesses them and screws with them....."
3. Nov 11, 2008 @1859 & @ 1913 w/Jim, \$28,500 Estate check paid to Defendant; QDRO, Estate check for \$4,580 to Renee; Defendant trying to "liberate \$ from the Estate";
4. Nov 25, 2008 @1129 w/Jim, Estate reimbursement, QDRO;
5. Dec 7, 2008 @1320 w/Jim, \$8,300 owed to Defendant from Estate; w/Katie if she signed off the QDRO;
6. Dec 14, 2008 @ 8:44 w/Jim; "....Did you check my email...";
7. Dec 14, 2008 @0915 w/Jim, pay Hartford Ins. Premium;
8. Dec 15, 2008 @2001 w/Renee, "easy for me to imagine being furious with Barb or Carol".
9. Dec 19, 2008 @1724 w/Katie, Jim handling finances, Charlotte's Social Security benefits paid to Jim;
10. Dec 20, 2008 @1353 w/Katie, Defendant wants the \$15K turned over to Jim for defense; @1727 w/Renee about Katie having too much power; @1918 w/Mom & Dad, wished we had not made Katie PR for Estate and Kottke causing problems; not having control over Katie; w/Katie saying \$15K in bank is for the defense; w/Renee, not happy w/Katie's authority;
11. Dec. 24, 2008 @0928 w/Renee about Defendant as flight risk.
12. Dec. 28, 2008 @0806 & @ 0822 w/Renee, Katie not cooperating, it is my money, not hers; the resources (insurance proceeds) are mine & I get to decide and priorities I get to decide;
13. Jan. 2, 2009 @1912 w/Mom & Dad, significant shift in finances; 7-5-0 great; @ 1744 w/Renee, shift in finances;
14. Jan. 3, 2009 @0909 w/Jim, significant shift in finances; @1520 w/Charlotte & Sue, Katie is going to have to be managed;
15. Jan. 4, 2009 @0850 w/Jim being uncomfortable talking on the phone;
16. Jan. 5, 2009 @ 0745 w/Renee: "...the Estates and monies and my finances as they are unfolding now....."
17. Jan. 11, 2009 @1149 w/Renee, reconciliation would not work w/Carol;

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- 1 18. Jan 15, 2009@1625 w/Renee, Defendant "... she owed me eighty three
- 2 hundred of it over coffee...The whole point of the coffee meeting was to
- 3 settle it; ...that was really the main point of coffee that morning;
- 4 19. Jan 17, 2009 @1508 w/Renee, Defendant met with his estate attorney
- 5 today "could be huge";
- 6 20. Jan 20, 2009 @1621 w/Jim, financials need to be opaque;
- 7 21. Jan 24, 2009@2100 w/Renee, I knew...when the divorce was over I was
- 8 vulnerable to her not paying it(BP mortgage);
- 9 22. Jan 30, 2009 @1722 w/Jim, about atty Bob Schmidt;
- 10 23. Feb 5, 2009 @ 16:16 w/Charlotte, Knapp was always very strange...
- 11 He was a really nice guy."
- 12 24. Feb 6, 2009 @2043 w/Renee, Katie listening to Kottke, Defendant
- 13 "...better for me to keep it at arm's length";
- 14 25. Feb 7, 2009@0843 w/Jim: Jim making all payments, "financial relief will
- 15 flood in fairly quickly; @1638 w/Mom/Dad, "cavalry is coming before
- 16 too long;
- 17 26. Feb 15, 09 @1127; w/Jim, Estate sticking him w/2 mortgage payments;
- 18 Kottke advising Katie to abandon BP;
- 19 27. Feb. 18, 09 @1415 w/Jim, good financial relief on the way & future of
- 20 Bridle Path;
- 21 28. Feb 19, 2009 @ 1140 w/Renee if she is willing to "take over;
- 22 29. Feb 20, 2009 @ 0828 w/Renee: Defendant "...I find myself getting a
- 23 little more concerned about the financial end of this..."
- 24 30. Feb. 21, 09 @0950 w/Jim, being briefed on financials;
- 25 31. Mar 2, 2009 @ 0818 w/Renee "every dime for defense";
- 26 32. Mar. 5, 2009@1746 w/Mom/Dad, "certain we'll have (financially) what
- we need"; @1859w/Jim, Katie strident, defiant unwilling to talk about \$;
33. Mar 8, 09, @ 1333 w/Katie, she refuses to pay mortgage on BP;
34. Mar 9, 2009 @2123 w/Renee about the "thing" w/Katie ;
35. Mar. 13, 2009 @1709 w/Renee, "little stash I had" (Escape Bag);
36. Mar. 17, 2009 @1039 w/Katie, big argument over Estate \$- Defendant
- makes the Decisions; @1055 w/Katie, "these are resources...that I am
- going to make the decisions about"; @1150 w/Charlotte, "family
- priorities are bond and defense";
35. Mar. 18, 2009 @0757 w/Renee, "no question where the \$ has to go; not
- put it under ; Katie's control; remove Katie, can not control her; @1739
- w/Renee, Katie not happy with any of this;

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- 1 36.Mar. 30, 09 @1229 and 12:44 w/Jim, money on the way, Jim "I know the
- 2 big picture..."; @1333 w/Renee, Carol might walk away from BP and not
- 3 pay mortgages;
- 4 37.Mar. 31, 2009 @1717 w/Dad, everything coming into Estate for legal fees;
- 5 Estate is a separate sleeve of money; matter of a "little manipulation";
- 6 38.April 8, 09 @1633 w/Jim, have the money but Jim w/n talk about
- 7 "nuances";
- 8 39.April 18, 09 @ 1052w/Jim, about prepared materials he circulated to key
- 9 people...;
- 10 40. April 26, 2009 @1026 w/Renee, on how Defendant set things up
- 11 beforehand for the defense;
- 12 41.May 3, 2009 @1328 w/Renee, Defendant reminding her how he handed
- 13 golf club to Carol at Alpine Meadows condo;
- 14 42.May 8, 2009 @1403 w/Mom, Defendant discusses Renee taking over the
- 15 money;
- 16 43.May 9, 2009 @ 0910 w/Renee, no money for his bond; @1944 w/Renee-
- 17 Defendant discusses attorney fee cap paid in lump sum;
- 18 44.May 11, 2009 @0900 w/Renee, attorney fees will be \$1.3- \$1.4 million;
- 19 @1152 w/Renee to sign POA; @1708 w/Jim "...Katie pulled in";
- 20 45.May 14, 2009 @1712 w/Renee, "any luck with treasure hunt"? Discussing
- 21 escape bag on golf course;
- 22 46.May 16. 2009 @1639 w/Katie pressing her for money from Estate and she
- 23 is not giving Defendant any more money; Defendant says he's a creditor of
- 24 Carol's Estate;
- 25 47.May 18, 2009 @1731 w/Renee "go treasure hunting"(escape bag);
- 26 48.May 19-22, 2009, the following are grouped since all pertain to the VIV.
- May 19, 2009 (6 calls from Def). Defendant makes 2 calls after evening
- meal: (1) to Charlotte @1942 and (1) to Renee@ 2057;
- 49.May 20, 2009, Defendant made 17 calls. At 1008 w/Renee, family meeting
- to discuss finances, remaining calls to Charlotte and Katie;
50. May 21, 2009, Defendant makes 9 calls as follows: @ 0914 to Renee;@
- 1029 to Charlotte; @ 1506 to Renee; @ 2041 to Renee; @ 2122 to
- Charlotte. At @ 1506 to Renee Defendant, ".....it's been an emotional day
- for me. I can't explain it but I will. @1724 to Renee "...I'm just feeling
- really hopeful after today..."
51. May 22, 2009 @9:29 w/Renee, @1011 w/Janice DeMocker;
52. May 20, 2009@1744 w/Renee; Defendant giving her direction to find the
- escape bag;

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- 1 53. May 21, @1506 w/Renee, tells her to get with Anna Young for funds
- 2 owed him, \$8300 and for the BP mortgage payments;
- 3 54. May 23, 2009 @1022 w/Jim, face to face w/Katie for stalling on the
- 4 money; controlling Katie; @1038 w/Jim about money for defense and
- 5 Katie;
- 6 55. May 26, 2009 @0708 w/Jim, bringing paper to write and hold it up to
- 7 the glass during jail visits; @1110 w/Renee, Katie refusing to cooperate,
- 8 Renee is successor trustee; @1403 w/Jim, getting Katie straightened out;
- 9 @1604 w/Mom/Jim, worried about keeping family confidences, who
- 10 is red and who is green, green is in the know and red is not; @1734
- 11 w/Renee about Jim negotiating w/Sears and money coming in; @2022
- 12 w/Jim about red and green and him being nervous;
- 13 56. May 27, 2009 @1030 w/Jim and his 25 years spurring people on; @1403
- 14 w/Jim about money pressure from the lawyers;
- 15 57. May 30, 2009 @1638 w/Jim, on a prepared draft spread sheet coded
- 16 outlining revenues & expenses; Katie cannot change her mind, not an
- 17 option; @1655 w/Jim about Katie driving Defendant nuts with this;
- 18 @1718 w/Renee, Katie not on board, she's leveraging the control;
- 19 58. May 31, 2009 @1022 w/Jim, need fee agreement in writing; @ 1037
- 20 w/Jim sending "spread sheets" to Charlotte and Katie; @1259 w/Char-
- 21 Katie hanging onto control & will torpedo house of cards; Def tells
- 22 Charlotte to get here early on next jail visit and bring pen & paper. @ 1514
- 23 to Jim, asks for is balance in acct Katie is controlling...my understanding
- 24 is that all checks have been signed and distributed;
- 25 59. June 1, 2009 @1059 w/Katie, tries to get money amount in the Estate
- 26 account, how the family has a financial plan for Charlotte; @1734
- w/Renee, how to find escape bag on golf course, told her to get here early
- w/Char for next jail visit;
60. June 2, 2009 @1049 w/Charlotte about driving to jail early for "private"
- visit and they are bringing paper; @1401 w/Renee, checking on Charlotte
- & how "project" needs both C & R; @1728 w/ Charlotte, all Def can think
- about is the "letter", "trust my judgment", (email);
61. June 4, 2009 @1400 w/Katie, Defendant wanting a formal accounting of
- the Estate; @1628 w/ Charlotte, Defendant has inmate to help
- w/technology re-email;
62. June 5, 2009 @1503 w/Renee, dramatic changes in case, lower bond;
63. June 13, 2009 @14:03 w/Renee, about Sears returning his calls:
- "Apparently it's not quite the, you know...I' m just always used to having
- a line with me and so I figured if someone doesn't call back in half an hour

- 1 or an hour then that just means....they don't want to be accessible."
2 @1917 w/Charlotte, I'll do anything it takes" (sic to help with email);
3 64.June 18, 09 @2013- w/Charlotte, sending email tomorrow;
4 65.June 19, 2009 @0945 w/Charlotte, running errands today (email);@1555
5 w/Renee about giving Charlotte gas money today (email); @0958 w/Katie
6 about a "Lithuanian hit man"; @1916 w/ Charlotte, Def thanks her for
7 helping her, she got lost in Phx (day email was sent);
8 66.June 21, 09 @1847 w/Mom & Dad about Calloway golf club; @1903 w/
9 Charlotte about divorce "what kind of venom can be in there"; Charlotte
10 says c/n use the word civil talking about their divorce;
11 67. June 20 and June 22 calls relate to anonymous email; On 6/20/09 at 1048
12 w/Renee about email; At 1113 w/Renee he left something out from his
13 code so he asks that Renee hold off on it; @ 1311 w/Janice DeMocker
14 discusses further financial matters to close the deal with Sears; @1929
15 w/Renee about email;
16 68. On 6/21/09 Defendant completed (13) calls. The first three calls dealt
17 primarily with working out issues with the numerical code; at@1212
18 w/Renee about email and VIV; @ 2023 w/Charlotte "Well I'm hoping this
19 coming week, yeah know I think we have a little drama coming this
20 week..."
21 69. June 23, 09 @1639 w/Renee about VIV & Email- lowering anxiety
22 around 2nd message (email) hoping to lower bond;
23 69.July 3, 09 @ 1550 w/Renee, about meeting John Sears has with Joe
24 Butner (voice-in-the-vent and the e-mail);
25 70. July 4, 09 @ 1258 w/Jim, next week cooperating w/Butner (They discuss
26 the voice-in-the-vent and the e-mail).
71.July 5, 09 @1153 w/Dan, meeting prosecution on Tuesday over a lead that
came up; the lead can "tip the scales."
72. July 13, 09 @ 1413 w/Renee, "false rumors floating around." The
rumor that the golf club was the weapon used to kill Carol.
73. Aug 1, 2009,@1011 w/Renee, Defendant & Carol would "rage" and
"leave each other trembling"; @1338 w/Jim- hybrid public/private
funding, each pays half;
74. Aug 2, 2009 @1228 w/Mom hybrid public/private funding of defense;
75. Aug 4, 2009@1646 w/Renee, she is to be Successor Trustee;
76. Aug 6, 2009 @ 1449 w/Renee. "the real guy is getting away."
77. Aug 7, 2009 @1245 w/Katie, "trying to get money moved from one place
to another"; Sears emailing banking procedure to Katie to "walk her
through it"; @1503 w/Renee, Sears to give her bank routing information;

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- 1 78. Aug 8, 2009 @0932 w/Mom, trying to get Sears and OM paid w/the
- 2 \$350K; @0948 & 0956 w/Mom discussing the transfer of the insurance
- 3 money @1619 w/Renee on money transfers;
- 4 79. Aug 10, 2009 @1155 w/Renee, Katie does not know about money
- 5 transfer, Defendant "his project" and directing money transfer from Trust
- 6 to his attorneys; @1513 w/Renee, Katie not cooperating with the money
- 7 transfers;
- 8 80. Aug 11, 2009 @1144 w/Katie about Sears involvement in money
- 9 transfers; @1156 & @1211 w/Katie, Defendant directs her to transfer
- 10 \$350k & she is resisting; Defendant describes in detail the steps that Katie
- 11 needs to take to transfer money through the "legal shell game."
- 12 81. Aug 15, 2009 @1237 w/Katie & Charlotte about money transfers; @1313
- 13 w/Renee money transfers;
- 14 82. Aug 17, 2009 @1541 w/Katie & Charlotte on money transfers;
- 15 83. Aug 26, 2009 @ 1111 w/ Jim about DNA;
- 16 84. Aug 29, 2009 @ 1702 w/Mom and Dad, received first \$350K. "hang on to
- 17 that information. (transferring money to Sears and OM) You'll need it
- 18 again in mid-October for the second part" ; Mom says, "yeah, we'll have
- 19 to do it again." SD says, "about five or six weeks you'll do it a second
- 20 time."
- 21 85. Sept 6, 2009 @1010 w/Katie transfer of \$350K;
- 22 86. Sept 14, 09, @1103 w/Katie about Sears being "shorted" \$5K;
- 23 87. Sept 15, 2009 @ 1330 w/Renee, the shell game is legally appropriate and
- 24 they had to do it that way to get the attorneys paid; Renee upset seeing
- 25 Carol's name on bank statement w/her name; @1346 & @ 1740 w/Renee
- 26 about the Trust and Katie;
88. Oct 1, 2009 @2052 w/Renee referring to killer in the singular; Defendant
- tells Renee that he wants to "hold accountable Carol's killer";
89. Oct 2, 2009, @ 1140 to Renee, about Charlotte's money to stay in trust until
- she turns 18;
90. October 11, 2009 @1004 w/Renee on Charlotte turning 18 tomorrow; @
- 1502 & 1533 w/Mom and Dad, Defendant them they are going to repeat
- the process that Katie went through with Charlotte sending her portion of
- the money to mom and dad after she turns eighteen ; Defendant says he
- "undoubtedly" spent more money than he should have during the big
- earning years, but it was Carol's fault";
91. Oct 12, 2009 @1414 w/Renee, about Sears' delaying transfers until next
- week;

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- 1 92. October 19, 2009 @ 0912 w/Renee, Defendant "You feel like moving
- 2 \$350,000 around today:
- 3 93. October 19, 2009 @ 1330 w/Renee, telling Defendant she needs to hang
- 4 up because she is at that bank with Charlotte helping Charlotte transfer the
- 5 money;
- 6 94. October 19, 2009 @ 1443 w/Renee, if the money got transferred;
- 7 95. October 19, 2009 @ 1653 w/Charlotte, "Thank you for your gift today."
- 8 i.e. "Paying debt to my parents." Charlotte says that all she did was sign
- 9 on the dotted line.
- 10 96. October 20, 2009 @ 1927 w/Charlotte, about Carol's murder;
- 11 97. October 21, 2009 @ 1406 w/Mom, discussing the insurance money that
- 12 went into the estate, and which the girls transferred to mom to pay the
- 13 attorneys. Mom says, "It really isn't the girls' money." Def corrects her
- 14 and says that it is "Really important to say on the record that it is the girls'
- 15 money" ... "the girls are choosing to repay you and dad for all you've laid
- 16 out here, and you are choosing to loan it back to me to pay the team.";
- 17 98. Nov 14, 2009 @ 1705 w/Charlotte, about Sears' shorted \$20K and he
- 18 needs all of her surplus money from the Trust to pay attorneys;
- 19 99. Feb 4, 2010 **Jail visitation** w/Renee & Charlotte, about Kennedy
- 20 Testamentary Trust; Renee's name on it; her feeling icky about that; and
- 21 her taking control over the account;
- 22 100. Apr. 30, 2010 @1052 w/Mom, discussing article on the "anonymous
- 23 email";
- 24
- 25
- 26